

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

APR - 5 2018

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

CASE NUMBER: 18-M- 643

Adam J. Westphal
(DOB: 03/17/1977)

I, Michael J. Sewall, the undersigned complainant, being duly sworn, states the following is true and correct to the best of my knowledge and belief. That on or about April 5, 2018, in the State and Eastern District of Wisconsin, Adam J. Westphal, did commit violations of Title 18, United States Code, Section 2422(b) "use of a computer to attempt to entice a minor to engage in sexual activity" and Title 18, United States Code, Section 2252A(a)(2)(A) "distribution of child pornography."

I further state that I am a Sheriff's Deputy with the Winnebago County Sheriff's Office, and this complaint is based on the following facts:

Please see the attached affidavit.

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No



Signature of Complainant
Michael J. Sewall

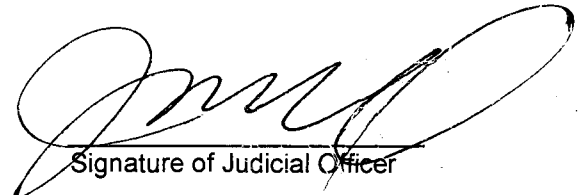
Sworn to before me and subscribed in my presence,

April 5, 2018
Date

at Green Bay, Wisconsin
City and State

The Honorable James R. Sickel
United States Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

Your affiant is employed as an investigator with the Winnebago County Sheriff's Office in Oshkosh, Wisconsin. Your affiant is a sworn law enforcement officer in the State of Wisconsin and has been an internet crimes against children investigator for the past five years. Your affiant has received over 500 hours of specialized training in the investigation of online child exploitation and sensitive crimes.

Your affiant began an undercover internet crimes against children operation utilizing Craigslist and Kik Messenger on 03/15/2018. Your affiant began posing as a 34 year old woman from Neenah, State and Eastern District of Wisconsin, and starting a 'taboo' Kik messenger group. An ad was placed on Craigslist with the associated undercover Kik username of maddyc1213. The ad described the group as a place where people could discuss and share taboo sexual experiences and desires.

As part of this operation your affiant was private messaged by a user with username daddyinyouagain and profile name Mark Winston. Your affiant informed the user that the undercover had a 14 year old daughter. The user informed your affiant that he had two children and stated that he was "not playing with them, yet...". At 1951 hours the user sent your affiant two images of what appear to be a prepubescent female in the shower. The user captioned these images stating "I snapped a couple quick ones tonight when she was showering". Your affiant asked the user how old she was to which the user replied "8, but she's commonly mistaken as 12 because she's tall. One image depicted the entire nude backside of the female including her buttocks. The second image depicted the female from the front showing her chest.

The user made statements referring to the images that were sent "Going to be a heartbreaker, especially if I'm the first one to get in her pants lol, I know I'm plenty hot thinking about it" and "the only thing I can have a beer and stroke a bit with these dirty ass thoughts I am having". The user further states his intention to sexually assault the child stating "I was thinking of trying to let a teaching session about how babies come out go a little too far to break the ice."

Due to the nature of the user's statements and the corresponding nude images the user is suspected of taking of his eight year old daughter, and emergency disclosure request was submitted to Kik

Messenger for the username daddyinyouagain. Your affiant analyzed these records and determined the most common IP address associated with this account was 65.30.210.95. A check of that IP address identified an internet service provider of Charter Communications. On March 20th, 2018 a subpoena duce tecum was completed for the IP address 65.30.210.95. Charter Communications provided your affiant with an address associated with the IP address of 1536 S. 60th Street, West Allis, State and Eastern District of Wisconsin, 53214. The subscriber record also indicated that the account was registered to a Michael J Nicolazzi with an email address of caranicolazzi@yahoo.com and a phone number of 414-453-1264.

Your affiant then made contact with the West Allis Police Department's sensitive crime unit in reference to this case. Detective Sturino of the West Allis Police Department was able to make contact with residents at the 1536 S. 60th Street address and establish that a Cara Nicolazzi and her two children one female and one male resided there. Cara informed Detective Sturino that an Adam J. Westphal also frequented the address as he was the biological father to the children that lived there.

Your affiant ran a Wisconsin Department of Transportation check on the name Adam Westphal and was provided a person by the name Adam J. Westphal with birth date of 03/17/1977 along with an image of an adult Caucasian male with a beard.

Your affiant continued his conversation with the user and the user goes on to send a live image within Kik Messenger depicting an adult Caucasian male with a beard. Below the image was the caption "camera" indicating that the image was taken with that specific account at that moment. Your affiant was able to determine that Adam J Westphal from the DOT photo was in fact the same individual who had sent the image using the Kik account daddyinyouagain.

The conversation continued with the user and the user sends another live image using Kik messenger depicting the same Caucasian male with a beard, this time with a hard hat on and an orange sweatshirt. The user then states "Found a group for you!", "anything goes". The user had added the undercover to the group "Stuff". Within the group the user daddyinyouagain sent a video to all the users of what appeared to be a prepubescent female approximately 7 to 9 years old

completely nude. The prepubescent female lays down on a bed and begins to put her finger in and around her vagina. The prepubescent female's genitals are the focus of the image. The prepubescent female continues to change camera angles to her vagina and her anus while touching herself.

Daddyinyouagain then sends another image of what appears to be a prepubescent female approximately 6 to 9 years old laying on a bed nude. An adult male is standing over her with an erect penis. The adult male can be seen holding the prepubescent females hands around his penis and stroking his penis. The adult male then continues to masturbate over the prepubescent female until he ejaculates on her stomach.

The user goes on to send the undercover an image of what appears to be a prepubescent female approximately 6 to 9 years old laying on a quilt with only black thigh high socks on. The prepubescent female is tied at the wrists and has her legs tied together. The prepubescent female's vagina and breasts are exposed in the image and are the focal point of the image.

The user brings up a sexual encounter with the undercover's 14-year-old daughter stating "Don't take this the wrong way. When you said you wish you had something to share. I thought about meeting you and your daughter and we could make something for you to share". Your affiant informed the user that he would be okay with it. The user then states "You just sent my horniness into overdrive". The user then sends a video depicting what appears to be a prepubescent female lying on her back with her face between an adult female's legs. The camera pans out and shows the prepubescent female between the adult female's legs. The video then shows the prepubescent female licking the adult female's vagina. The camera then pans out an erect penis can be seen being forced into the prepubescent female's vagina.

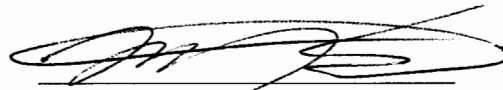
I am aware based on my training and experience that the above-described digital images constitute child pornography as that term is defined under the laws of the State of Wisconsin and the United States of America.

The user then made more statements regarding the interaction that would take place with the undercover's 14 year old daughter stating "Well there isn't much doubt in my mind the first round is going to be kinda quick. I have to imagine she's prob kinda tighter than I've had in a while. But I'm good for multiple rounds, with a young naked body in front of me or sucking on me it probably won't take long to be ready again". The user goes on to send an image of an adult male with an erect penis in the frame. The adult male is clearly Adam Westphal.

It was agreed that the user would drive up to Neenah to have sex with the undercover's 14 year old daughter. A time frame of 0830 and 0930 hours was established. The user states "just keep thinking how much fun tomorrow is going to be". The user informed your affiant that he would be arriving around 0930 on 04/05/2018. The established address was 119 Klompen Court, Neenah, State and Eastern District of Wisconsin. At approximately 0930 hours a silver Subaru Forester matching the description of a registered vehicle to Adam J. Westphal was seen driving Westbound on Breezewood Lane in route to the area. A traffic stop was conducted on the vehicle and an Adam J. Westphal DOB 03/17/1977 was taken into custody.

Westphal's vehicle was searched and an iPhone X was located on the driver's seat. This device was seized as evidence to this case. Westphal was secured and transported to the Winnebago County Jail. At approximately 1020 hours your affiant and Detective Brian Hammen of the Winnebago County Sheriff's Office conducted an interview with Westphal. Westphal was read and waived his Miranda rights and we discussed what had taken place. Westphal admitted to creating and utilizing the account daddyinyouagain with the name Mark Winston.

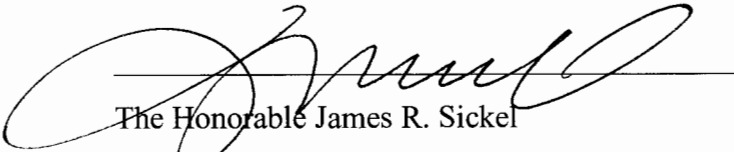
Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that Adam J. Westphal, committed violations of Title 18, United States Code, Section 2252A(a)(2)(A) "distribution of child pornography" and Title 18, United States Code, Section 2422(b) "use of a computer to attempt to entice a minor to engage in sexual activity."



Deputy ~~Michael~~ J. Sewall

Winnebago County Sheriff's Office

Subscribed and sworn before me this 5 day
of April, 2018.



The Honorable James R. Sickel

United States Magistrate Judge